

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GREGG FREISHTAT, as
Shareholders' Representative,

Plaintiff,

v.

LIVEPERSON, INC.,

Defendant.

Civil Action No. 1:07-CV-6838-JGK

~~PROPOSED~~ **REVISED SCHEDULING ORDER AND DISCOVERY PLAN**


Plaintiff Gregg Freishtat, as Shareholders' Representative ("Freishtat"), and Defendant LivePerson, Inc. ("LivePerson"), by and through their respective undersigned counsel, hereby revise the Revised Scheduling Order and Discovery Plan, dated March 20, 2009, as follows:

I. PRE-DISCOVERY DISCLOSURES

1. The initial disclosures required under Fed. R. Civ. P. 26(a)(1) were made on or before December 14, 2007.

II. DISCOVERY PLAN

2. **Documentary Production:** Production of documents responsive to any requests for production of documents and things served on or before February 20, 2009 shall begin promptly after responses and/or objections are served, continue on a rolling basis and be completed on or before March 27, 2009. Production of documents responsive to any requests for production of documents and things served after February 20, 2009 shall be completed within thirty (30) days from the date of service of such request for production of documents.

3. **Depositions:** Depositions shall ~~not commence prior to February 1, 2009 and shall~~ be completed on or before June 30, 2009. 

4. **Electronically-Stored Information:** The parties have agreed to continue to work together to resolve necessary issues relating to the preservation and production of electronically-stored information ("ESI"), including the sources to be searched for ESI and the format and costs of ESI production.

5. **Expert Reports and Discovery:** The parties have agreed to the following schedule relating to the discovery of experts:

- a. The party bearing the burden of proof on any area in respect of which it seeks to submit expert testimony shall identify all such areas to the other party on or before June 1, 2009.
- b. A party will identify any additional areas in respect of which it seeks to submit expert testimony in response to opposing party's designations in ¶5(a) *supra* on or before June 15, 2009.
- c. The party bearing the burden of proof on any area in respect of which it seeks to submit expert testimony shall serve its expert report(s) on all such areas on or before June 30, 2009.
- d. The parties will exchange rebuttal expert reports on or before July 31, 2009.
- e. Depositions of experts shall be completed by all parties on or before August 31, 2009.

III. OTHER MATTERS

6. ~~Amendment and Joinder~~: If Plaintiff wishes to amend the Complaint or to join additional parties in the Litigation, he shall do so no later than January 31, 2009. *sup*

7. **Summary Judgment**: A moving party shall file papers in respect of a motion for summary judgment on or before September 30, 2009.

8. **Protective Order**: Issues and procedures relating to claims of privilege or of protection of material are addressed in the parties' Proposed Stipulated Protective Order, filed with the Court on December 4, 2007, and incorporated by reference.

SO ORDERED.

Dated: April 27, 2009
New York, New York


United States Magistrate Judge

CONSENTED AND AGREED TO BY:

/s/ Stacie F. Dubnow

Stacie F. Dubnow
William Michael Mullen
FREISHTAT, MULLEN & DUBNOW, LLC
Suite 1000, Executive Plaza I
11350 McCormick Road
Hunt Valley, Maryland 21031
Tel: 410-727-7710
Fax: 410-727-7356
sfdubnow@freishtatlaw.com
wmmullen@freishtatlaw.com

/s/ Douglas F. Curtis

Douglas F. Curtis
Justina L. Geraci
WILMER CUTLER PICKERING HALE AND DORR LLP
399 Park Avenue
New York, NY 10022
Tel: 212-230-8800
Fax: 212-230-8888
douglas.curtis@wilmerhale.com
justina.geraci@wilmerhale.com

*Attorneys for Plaintiff Gregg Freishtat, as
Shareholders' Representative*

Date: April 27, 2009

Attorneys for Defendant LivePerson, Inc.

Date: April 27, 2009